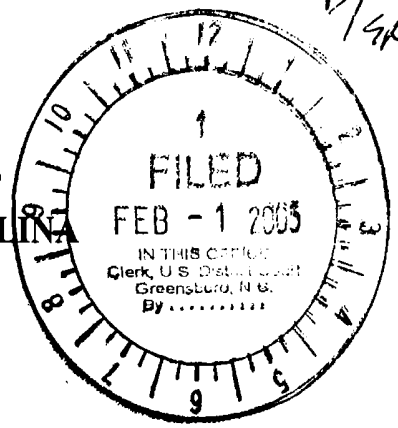


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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



CHUKWUMA E. AZUBUKO,

Plaintiff,

v.

CHIEF JUDGE WILLIAM YOUNG,

Defendant.

Civil Action No. _____

1:05CV00083

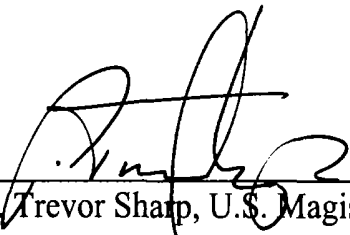
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

On December 27, 2004, Plaintiff Chukwuma E. Azubuko submitted a *pro se* complaint to this Court and requested that he be permitted to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). In his complaint, Plaintiff alleges that Defendant Chief Judge William Young of the United States District Court for the District of Massachusetts wrongfully (1) dismissed Plaintiff's lawsuit against the Massachusetts Board of Bar Overseers; (2) sanctioned Plaintiff under Rule 11 in the amount of \$5,000.00 (the payment of which was suspended unless, without prior approval from a federal judge, Plaintiff filed an action in any federal court that was subsequently dismissed as frivolous); and (3) declined to recuse himself from adjudicating Plaintiff's case.

In *Neitzke v. Williams*, 490 U.S. 319 (1989), the United States Supreme Court held that a district court may dismiss the complaint of a *pro se* litigant under 28 U.S.C. § 1915(e)(2)(B) when the complaint lacks "an arguable basis either in law or fact." *Id.* at 325. *Neitzke* explained that "[§ 1915(e)(2)(B)] accords judges not only the authority to

dismiss a claim based on an indisputably meritless legal theory, but also the unusual power to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless." *Id.* at 327. Additionally, under *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992), a court may dismiss as frivolous in forma pauperis complaints whose factual allegations are fanciful, fantastic, delusional, irrational, or wholly incredible, but not those which are simply unlikely.

The Court concludes that Plaintiff Azubuko's complaint is subject to dismissal under *Neitzke*. Here, Plaintiff's complaint against Chief Judge Young contains a series of largely unintelligible allegations and utterly fails to provide any statutory or other basis for federal jurisdiction. For the reasons set forth above, **IT IS RECOMMENDED** that Plaintiff's complaint be dismissed as frivolous under 28 U.S.C. § 1915(e)(2)(B). In light of this recommendation and Chief Judge Young's prior order staying enforcement of the \$5,000.00 fine against Plaintiff unless and until a subsequent action filed by Plaintiff in a federal court was dismissed as frivolous, **IT IS FURTHER RECOMMENDED** that a copy of this recommendation (and any subsequent order of the Court adopting this recommendation), be forwarded forthwith to the United States District Court for the District of Massachusetts.



P. Trevor Sharp, U.S. Magistrate Judge

~~FEBRUARY~~
~~January~~ 1, 2005